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**Family Housing and Adult Resources, Inc. and Social Services Union, Local 535, Service Employees International Union, AFL-CIO.** Case 20-CA-27329

October 23, 1996

DECISION AND ORDER

BY CHAIRMAN GOULD AND MEMBERS BROWNING  
AND FOX

Pursuant to a charge filed on July 1, 1996, the General Counsel of the National Labor Relations Board issued a complaint on August 9, 1996, alleging that the Respondent has violated Section 8(a)(5) and (1) of the National Labor Relations Act by refusing the Union's request to bargain and to furnish information following the Union's certification in Case 20-RC-17080.<sup>1</sup> (Official notice is taken of the "record" in the representation proceeding as defined in the Board's Rules and Regulations, Secs. 102.68 and 102.69(g); *Frontier Hotel*, 265 NLRB 343 (1982).) The Respondent filed an answer admitting in part and denying in part the allegations in the complaint and asserting affirmative defenses.

On September 26, 1996, the General Counsel filed a Motion for Summary Judgment. On September 27, 1996, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. On October 11, 1996, the Respondent filed a response.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Summary Judgment

In its answer and response, the Respondent admits its refusal to bargain and to furnish the requested information, but attacks the validity of the certification on the basis of its arguments in support of its objections to the election and with respect to certain challenged ballots.

All representation issues raised by the Respondent were or could have been litigated in the prior representation proceeding. The Respondent does not offer to adduce at a hearing any newly discovered and previously unavailable evidence, nor does it allege any special circumstances that would require the Board to reexamine the decision made in the representation proceeding. We therefore find that the Respondent has not

<sup>1</sup>The complaint was amended on August 27, 1996, to delete a paragraph which alleged that the Respondent had unlawfully refused to provide certain information related to its budget.

raised any representation issue that is properly litigable in this unfair labor practice proceeding. See *Pittsburgh Plate Glass Co. v. NLRB*, 313 U.S. 146, 162 (1941).

We also find that there are no issues warranting a hearing with respect to the Union's request for information. The complaint alleges that the Union requested the following information from the Respondent:

(a) A list of all current employees, including their names, dates of hire, rates of pay, job classification, current address, home telephone number, and social security number.

(b) A copy of all current personnel policies and procedures.

(c) A statement of all personnel policies and procedures in effect if not written or compiled as per item (b) above.

(d) A copy of all employee benefit plans, including health and welfare, pension, training and education, legal services, child care, or any other plans which relate to employees.

(e) A copy of all current job descriptions inclusive of the date such descriptions were made effective.

(f) A copy of all disciplinary notices, warnings, or records of disciplinary personnel actions for the period of April 1, 1995, to the present.

The Respondent's answer asserts that the Respondent has no information or belief concerning whether the foregoing information is necessary and relevant to the Union's duties as the exclusive collective-bargaining representative of the unit. However, it is well established that, with the exception of the employees' social security numbers requested in paragraph (a),<sup>2</sup> the information is presumptively relevant and must be furnished on request. See *Trustees of Masonic Hall*, 261 NLRB 436 (1982), and *Mobay Chemical Corp.*, 233 NLRB 109 (1977).

Accordingly, we grant the Motion for Summary Judgment and will order the Respondent to bargain and to furnish the requested information with the exception of employee social security numbers.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

At all material times, the Respondent, a nonprofit corporation with an office and place of business in Belmont, California, has been engaged in the business of providing residential training and other services to developmentally disabled individuals. During the calendar year ending December 31, 1995, the Respondent in conducting its business operations described above, derived gross revenues in excess of \$250,000 and purchased and received at its Belmont, California facility

<sup>2</sup>See, e.g., *Dexter Fastener Technologies*, 321 NLRB No. 88 (July 5, 1996).

goods valued at more than \$3000 which originated from points outside the State of California.

We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

## II. ALLEGED UNFAIR LABOR PRACTICES

### A. *The Certification*

Following the election held March 9, 1995, the Union was certified on May 23, 1996, as the exclusive collective-bargaining representative of the employees in the following appropriate unit:

All full-time and regular part-time residential staff and day program staff, and all ILT staff who have been assigned client(s) on a regular basis during the two-month period immediately preceding the date of the election; excluding office clerical employees, maintenance employees, managerial employees, guards, and supervisors as defined in the Act.

The Union continues to be the exclusive representative under Section 9(a) of the Act.

### B. *Refusal to Bargain*

Since June 5, 1996, the Union has requested the Respondent to bargain and to furnish information and, since June 5 and 19, 1996, respectively, the Respondent has refused. We find that this refusal constitutes an unlawful refusal to bargain in violation of Section 8(a)(5) and (1) of the Act.

## CONCLUSION OF LAW

By refusing on and after June 5, 1996, to bargain with the Union as the exclusive collective-bargaining representative of employees in the appropriate unit and by refusing on and after June 19, 1996, to furnish the Union requested necessary and relevant information, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

## REMEDY

Having found that the Respondent has violated Section 8(a)(5) and (1) of the Act, we shall order it to cease and desist, to bargain on request with the Union, and, if an understanding is reached, to embody the understanding in a signed agreement. We also shall order the Respondent to furnish the Union the information requested with the exception of the social security numbers.

To ensure that the employees are accorded the services of their selected bargaining agent for the period provided by the law, we shall construe the initial pe-

riod of the certification as beginning the date the Respondent begins to bargain in good faith with the Union. *Mar-Jac Poultry Co.*, 136 NLRB 785 (1962); *Lamar Hotel*, 140 NLRB 226, 229 (1962), enf'd. 328 F.2d 600 (5th Cir. 1964), cert. denied 379 U.S. 817 (1964); *Burnett Construction Co.*, 149 NLRB 1419, 1421 (1964), enf'd. 350 F.2d 57 (10th Cir. 1965).

## ORDER

The National Labor Relations Board orders that the Respondent, Family Housing and Adult Resources, Inc., Belmont, California, its officers, agents, successors, and assigns, shall

### 1. Cease and desist from

(a) Refusing to bargain with Social Services Union, Local 535, Service Employees International Union, AFL-CIO as the exclusive bargaining representative of the employees in the bargaining unit, and refusing to furnish the Union information that is relevant and necessary to its role as the exclusive bargaining representative of the unit employees.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) On request, bargain with the Union as the exclusive representative of the employees in the following appropriate unit on terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement:

All full-time and regular part-time residential staff and day program staff, and all ILT staff who have been assigned client(s) on a regular basis during the two-month period immediately preceding the date of the election; excluding office clerical employees, maintenance employees, managerial employees, guards, and supervisors as defined in the Act.

(b) Furnish the Union the information that it requested on June 5, 1996, except for the social security numbers of employees.

(c) Within 14 days after service by the Region, post at its facility in Belmont, California, copies of the attached notice marked "Appendix."<sup>3</sup> Copies of the notice, on forms provided by the Regional Director for Region 20 after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices

<sup>3</sup> If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since July 1, 1996.

(d) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. October 23, 1996

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William B. Gould IV, Chairman

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Margaret A. Browning, Member

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Sarah M. Fox, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

#### APPENDIX

NOTICE TO EMPLOYEES  
POSTED BY ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD  
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT refuse to bargain with Social Services Union, Local 535, Service Employees International Union, AFL-CIO as the exclusive representative of the employees in the bargaining unit, and WE WILL NOT refuse to furnish the Union information that is relevant and necessary to its role as the exclusive bargaining representative of the unit employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, on request, bargain with the Union and put in writing and sign any agreement reached on terms and conditions of employment for our employees in the bargaining unit:

All full-time and regular part-time residential staff and day program staff, and all ILT staff who have been assigned client(s) on a regular basis during the two-month period immediately preceding the date of the election; excluding office clerical employees, maintenance employees, managerial employees, guards, and supervisors as defined in the Act.

WE WILL furnish the Union with the information that it requested on June 5, 1996, except for the social security numbers of employees.

FAMILY HOUSING & ADULT RESOURCES, INC.